रजिस्ट्री सं० डी० 221 REGISTERED No. D. 221

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II -Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

संख्या 45] नई दिल्ली, मंगलवार, अगस्त 22, 1972/श्रावण 31, 1894
No. 45] NEW DELHI, TUESDAY, AUGUST 22, 1972/SRAVANA 31, 1894

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

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## LOK SABHA

The following Bill was introduced in Lok Sabha on the 22nd August, 1972:—

BILL No. 81 OF 1972

*A Bill further to amend the Khadi and other Handloom Industries Development (Additional Excise Duty on Cloth) Act, 1953.*

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. This Act may be called the Khadi and other Handloom Industries Development (Additional Excise Duty on Cloth) Amendment Act, 1972. **Short title.**

2. In section 3 of the Khadi and other Handloom Industries Development (Additional Excise Duty on Cloth) Act, 1953 (hereinafter referred to as the principal Act), in sub-section (*1*), for the proviso, the following proviso shall be substituted, and shall be deemed to have been substituted with effect from the 10th day of January, 1957, namely:— **Amendment of section 3.**

12 of 1953.

"Provided that no such duty shall be levied on cloth—

(i) which is exported out of India, or

(*ii*) which is used in the manufacture of goods which are exported out of India.".

Amendment of section 5.

3. In sub-section (*2*) of section 5 of the principal Act,—

(*i*) in clause (*e*), after the words "exempt from", the words "the whole or any part of" shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of March, 1960;

(*ii*) the following proviso shall be inserted, and shall be deemed always to have been inserted, namely:—

"Provided that any rule under clause (*e*) may be made so as to have retrospective effect from any date not earlier than two years before the date of publication thereof.".

Validation of duty of excise levied and collected under the principal Act in respect of certain period.

4. (*1*) Notwithstanding anything contained in the principal Act, or in the rules made thereunder, the duty of excise levied and collected or purporting to have been levied and collected under the principal Act during the period beginning on the 1st day of March, 1969 and ending with the 6th day of July, 1970, on the cotton fabrics referred to in sub-section (*2*), manufactured by a manufacturer, shall be deemed to have been validly levied and collected in accordance with the rules published with the notification of the Government of India in the former Ministry of Commerce and Industry No. S.R.O. 1479, dated the 25th July, 1953, as subsequently amended by the notification of the Government of India in the Ministry of Foreign Trade No. S.O. 2369, dated the 7th July, 1970, as if those rules as so amended were in force at all material times when such duty was levied and collected and accordingly—

(*i*) no suit or other proceedings shall be maintained or continued in any court for the refund of any such duty so levied and collected;

(*ii*) no court shall enforce a decree or order directing the refund of any such duty so levied and collected; and

(*iii*) any such duty levied or assessed under the principal Act in respect of the aforesaid period, but not collected, may be recovered in the manner provided under the principal Act.

*Explanation.*—In this sub-section, "manufacturer" means a person who is engaged in the business of—

(*i*) spinning of cotton twist, yarn or thread; or

(*ii*) weaving of cotton fabrics; or

(*iii*) processing of cotton fabrics;

with the aid of power and who has a proprietary interest in at least two of the aforesaid businesses.

(*2*) The cotton fabrics referred to in sub-section (*1*), are—

(*i*) medium A fabrics, unprocessed;

(*ii*) medium B and coarse fabrics, being—

(*a*) unprocessed; or

(*b*) bleached; or

(*c*) dyed; or

(*d*) if bleached and dyed, not printed; or

(*e*) "Dhoti", "Sari", "Long Cloth", "Shirting" or "Drill" within the meaning of the *Explanation* to the notification of the Textile Commissioner No. S.O. 3656, dated the 13th October, 1964 issued under clause 22 of the Cotton Textiles (Control) Order, 1948.

## STATEMENT OF OBJECTS AND REASONS

Section 3 of the Khadi and other Handloom Industries Development (Additional Excise Duty on Cloth) Act, 1953 (12 of 1953) (hereinafter referred to as the Act), provides for the levy of an additional duty of excise (commonly known as handloom cess) on all cloth manufactured in India. The proviso to that section prohibits the imposition of such duty on cloth which is exported out of India. In pursuance of the proviso, no duty was levied from the 10th January, 1957, in respect of cloth used in the manufacture of garments and wearing apparel. Doubts have been expressed about the validity of exempting garments and wearing apparel from the levy of duty, as the proviso appeared to apply to cloth alone and not also to garments made therefrom. It is, therefore, proposed to amend section 3 of the Act retrospectively from the 10th January, 1957, so as to specifically provide that no additional excise duty shall be levied on goods made out of cloth and exported out of India.

2. Under section 5(2)(e) of the Act, cut-pieces of cotton fabrics (popularly known as fents) and handloom woollen fabrics were exempt from the payment of duty leviable under it from the 1st March, 1960 and the 24th April, 1962, respectively. It has been pointed out that under the said provision, Government was not empowered to grant such exemption in the case of fabrics which were not wholly exempt from the duty of excise leviable under the Central Excises and Salt Act, 1944. It is proposed to amend that section so as to empower the Central Government to grant exemption even in cases where the fabrics are partially exempt from the excise duty leviable under the 1944 Act and to make the amendment retrospectively from the 1st March, 1960, so as to validate the exemptions granted in the past.

3. Under the rules made under section 5(2)(e) of the Act on the 25th July, 1953, all varieties of cloth which were for the time being exempt from the duty of excise leviable under the Central Excises and Salt Act, 1944, were exempted from the additional excise duty leviable under the Act. Certain varieties of cloth were exempted from the payment of duty of excise under the 1944 Act with effect from the 1st of March, 1969 and in view of the rules aforesaid, the additional excise duty was also not payable in respect of those varieties of cloth. But, as the intention was not to exempt such varieties of cloth from the payment of the said additional duty, a notification was issued on the 7th July, 1970 to the effect that the said rules will not apply to these varieties of cloth. In the meanwhile, the additional excise duty has been collected from the manufacturers of these varieties of cloth. It is, therefore, necessary to regulate and validate these collections made between the 1st March, 1969 and the 6th July, 1970.

4. The Bill seeks to achieve the aforesaid objectives.

NEW DELHI; L. N. MISHRA.

*The 9th August*, 1972.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks to amend section 5(2)(e) of the principal Act so as to empower the Central Government to make rules to grant exemption from the duty of excise leviable under the Act even in respect of those fabrics which are partially exempt from the excise duty levied under the Central Excises and Salt Act, 1944. The matter in respect of which such rules may be made is one of procedure and detail. The delegation of legislative power is thus of a normal character.

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S. L. SHAKDHER,
*Secretary.*

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1972